



October 6, 2010

TO: ALL SCHOOL DISTRICTS, COUNTY SUPERINTENDENTS OF SCHOOLS, AND  
OTHER INTERESTED PARTIES

## TITLE 2. STATE ALLOCATION BOARD

### NOTICE OF PROPOSED EMERGENCY REGULATORY ACTION

In accordance with Assembly Bill 1302, Chapter 713, Statutes of 2006, enclosed are proposed emergency regulations adopted by the State Allocation Board (SAB) at its meeting on August 25, 2010. These amendments to the School Facility Program (SFP) Regulations authorize the SAB to establish future "priority funding rounds" in order to re-prioritize apportionments for school construction projects with the capability of submitting fund release requests within a specified period of time, thereby helping to create jobs and stimulate the economy. The purpose is to provide available State bond funds to those projects that are construction-ready.

Applicant school districts must submit their requests to convert unfunded approvals to State apportionments on the condition that they can request their project funds within 90 calendar days of the SAB's approval of their apportionment. A priority funding round participant which fails to submit its Form SAB 50-05 requesting release of its project funds within 90 days of the SAB's approval of the apportionment shall have its apportionment rescinded without further Board action.

Attached to this Notice is the specific regulatory language of the proposed emergency action and the Finding of Emergency. You may also review the proposed regulatory language and Finding of Emergency on the Office of Public School Construction (OPSC) Web site at [www.dgs.ca.gov/opsc](http://www.dgs.ca.gov/opsc). The proposed emergency regulations would amend the SFP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998.

The proposed emergency regulations would authorize the SAB to establish 30-calendar day application filing periods during public meetings. Applicant school district representatives must submit a signed written statement within the 30-calendar day filing period agreeing to the specific criteria of the priority funding round (described below under adoption of Regulation Section 1859.90.2). Applicant districts must within 90 calendar days of the SAB approval of the State apportionment submit and have in the physical possession of the OPSC the Form SAB 50-05 fund release request, with an original signature, or else the project shall be rescinded without further Board action. By participating in a priority funding round, a school district waives the right to an 18-month timeline to submit its fund release request [Education Code Section 17076.10(d)].

State bond funds will be apportioned to construction-ready projects whether it is actual cash from available on-hand bond funds or bond sales and/or from future successful bond sales.

The OPSC, on behalf of the SAB, will be submitting these emergency regulations to the Office of Administrative Law (OAL) during early October 2010. The following is an overview of the proposed regulatory amendments.

## INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established the SFP through Senate Bill 50, Chapter 407, Statutes of 1998. The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the OAL and filed with the Secretary of State on October 8, 1999.

The State of California is in a time of severe financial crisis. The proposed emergency regulations will authorize the SAB to take proactive steps to assist in the financial recovery of our State. The SAB will be authorized to establish future priority funding rounds which will re-prioritize apportionments for school construction projects to those which can within 90 calendar days request their project funds to begin the construction process, in order to immediately help create jobs and stimulate the economy.

A summary of the proposed emergency regulatory amendments is as follows:

Existing Regulation Section 1859.90.2, "Local Bond Reimbursement Fund Releases," will be renumbered as Section 1859.90.3.

Proposed adoption of Regulation Section 1859.90.2, "Priority Funding Round Process," authorizes the SAB to establish future 30-calendar day application filing periods to distribute available State school bond funding to school districts that request an apportionment. School districts must submit and have in the possession of the OPSC the Form SAB 50-05, "Fund Release Authorization," with the original signature and within 90 calendar days of the Board's approval of the State apportionment; failure to make this submittal within 90 calendar days will result in rescission of the project without further Board action. School districts wishing to participate must provide a written statement signed by an authorized district representative within the 30-calendar day filing period that contains all of the following:

- Request to convert the unfunded approval to an apportionment;
- Concurrence with the 90-calendar day time limit on fund release;
- Acknowledgement that failure to submit a Form SAB 50-05, with an original signature and have it physically possessed by the OPSC, within the 90-calendar day time limit will result in the rescission of the Apportionment without further Board action; and
- Acknowledgement that by participating in the priority funding round, the district is waiving its right to a standard 18 month timeline for fund release submittal.

For the purposes of this section, the word "rescinded" means that the apportionment returns to unfunded approval status with a new unfunded approval date. The new unfunded approval date will be determined by the Board at the time each priority funding round is approved. The district will not be required to re-submit the application and no further application review will be required.

Existing Regulation Section 1859.129 sets forth time limits on apportionments under the SFP Joint-Use Program for Type I and Type II Joint-Use projects. For Type II Joint-Use projects that are not part of a qualifying SFP Modernization project, the school district has 18 months from the date the Division of the State Architect (DSA) and California Department of Education (CDE)-approved plans were submitted to the OPSC to submit a completed Form SAB 50-05 or the apportionment will be rescinded without further Board action. The proposed amendment specifies that if the district applies for an apportionment through a priority funding round pursuant to Section 1859.90.1 or 1859.90.2, the 18-month time limit for submittal of the Form SAB 50-05 will be reduced to no more than 90 days from the date the Board approves the apportionment.

Existing Regulation Section 1859.197 sets forth the criteria for fund releases under the Career Technical Education Facilities Program (CTEFP). For CTEFP projects with reserved

funds pursuant to Section 1859.193(d), the school district has 18 months from the date the DSA and CDE-approved plans were submitted to the OPSC to submit a completed Form SAB 50-05 or the apportionment will be rescinded without further Board action. The proposed amendment specifies that if the district applies for an apportionment through a priority funding round pursuant to Section 1859.90.1 or 1859.90.2, the 18-month time limit for submittal of the Form SAB 50-05 will be reduced to no more than 90 days from the date the Board approves the apportionment.

### SUBMISSION OF COMMENTS

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the OAL, the adopting agency provide a Notice of the Proposed Emergency Action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency regulations to the OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code Section 11349.6.

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed emergency regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OAL within five days after the SAB submits the emergency regulations to the OAL for review.

Please reference submitted comments as regarding "State Allocation Board – Additional Priority Funding Rounds," addressed to:

Reference Attorney

Mailing Address: Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814

E-mail Address: [staff@oal.ca.gov](mailto:staff@oal.ca.gov)

Fax No.: (916) 323-6826

For the status of the SAB submittal to the OAL for review, and the end of the five-day written submittal period, please consult the Web site of 1) the OAL at [www.oal.ca.gov](http://www.oal.ca.gov) under the heading "Emergency Regulations," and 2) the OPSC at [www.dgs.ca.gov/opsc](http://www.dgs.ca.gov/opsc) under the Tab "Regulations" and then click "Proposed Regulations."

Pursuant to Title I, Section 55, please send a copy of written comments regarding the proposed regulatory action, as well as requests for a copy of the proposed regulatory action, and questions concerning the substance of the proposed regulatory action, addressed to:

Robert Young, Regulations Coordinator

Mailing Address: Office of Public School Construction  
707 Third Street, Room 1-430  
West Sacramento, CA 95605

E-mail Address: [robert.young@dgs.ca.gov](mailto:robert.young@dgs.ca.gov)

Fax No.: (916) 376-5332

### AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 375-5939. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Ms. Lisa Jones, Supervisor, Regulations Team, at (916) 376-1753.